DOCUMENT RESUME

ED 271 382 SO 017 354

AUTHOR O'Connor, Alice; Henze, Mary L.
TITLE The Plain Simple Business of Election: Presidential Election and the Republican Principle. A Guide for Discussion of Electoral College Reform.
INSTITUTION Jefferson Foundation, Washington, DC.
PUB DATE 84
NOTE 41p.; For other guides in this series, see SO 017 351-358.
AVAILABLE FROM The Jefferson Foundation, 1529 18th Street, NW, Washington, DC 20036 ($1.00).
PUB TYPE Guides - Classroom Use - Guides (For Teachers) (052)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Civics; *Constitutional History; Educational Resources; Governmental Structure; Instructional Materials; Political Science; *Politics; Secondary Education; Teaching Guides; United States Government (Course); *Voting

ABSTRACT

A discussion guide, one in a series on constitutional reform issues developed by The Jefferson Foundation as part of The Jefferson Meeting on the Constitution project, examines electoral college reform. The first section discusses how the electoral college functions and presents a brief history since 1787. The second section outlines four controversial elections in the years 1800, 1824, 1876, and 1888. The third section investigates major electoral alternatives including the district method, the proportional plan, and the direct popular election. The fourth section examines early changes in the electoral college. Further examination of the direct election alternative is discussed in the fifth section. The final section presents arguments for and against the electral college. Included in the document is a suggested reading list and a list of congressional hearings. (RSL)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED271382

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"THE PLAIN SIMPLE BUSINESS OF ELECTION"

Presidential Election and the Republican Principle

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

William R. Merriman, Jr.

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

SO 017354

A Guide for Discussion of Electoral College Reform

This discussion guide is one in a series on constitutional reform issues developed by The Jefferson Foundation as part of The Jefferson Meeting on the Constitution project. It may be photocopied in part or in full if attributed as follows: "Reprinted from a series of discussion guides on constitutional reform issues published by The Jefferson Foundation, Washington, D.C." The Jefferson Foundation would appreciate notification from those who reproduce this material for use in other programs.

Written by Alice O'Connor and Mary L. Henze

Copyright ©1984 by The Jefferson Foundation

How many voters realize that when they pull the lever for a Presidential candidate they are actually choosing a slate of electors who will in turn cast votes directly for the President? The reality of the electoral college system is easily lost in the campaign fray that precedes presidential elections and most voters are reminded of its existence only if they tune into television coverage of election returns. Recent nationwide surveys indicate, however, that a majority of voters who are aware of the electoral college system would prefer a system where each and every vote counted directly and carried the same weight.

It might seem like simple common sense to tally each vote directly as it is cast but supporters of the electoral college have a point, too. A system of indirect voting, they say, corrects the natural imbalances that exist in a large nation of diverse people and interests, all of which must be represented.

The argument over how we should elect our President has been one of the most heated and persistent in our political system. No other feature of American government has been the target of so many reforms. Direct election and the electoral college are only two of the dozens of methods which have been proposed over the last 200 years. And yet the electoral college system has remained intact. Why?

Electing the president is far more than an administrative necessity. The methods by which the choice is made is a mirror of the most fundamental principles of government. The statesmen, who gathered in Philadelphia the summer of 1787 to draft a new Constitution, debated long and hard over how to appoint the "Chief Magistrate" and those who reopen the discussion today find themselves confronted with the same difficult questions. Reviewing the original debate is the best way to comprehend the challenge posed by the need to find an equitable, democratic, representative way of electing a President. It is also the best way to prepare for considering reform of the electoral college in light of changes which have occurred in the American political system. How have changes in who votes for President and who runs for President affected the founders' electoral device? Does the electoral college still produce the fairest and best choice or is it time to overhaul our presidential election process?

The Electoral College—How it Works

Only the basic structure of the electoral college is set forth in the Constitution—many of the functional details of the system are left to the individual state legislatures to design and implement. Although opponents of the electoral college system fear the vagueness of the Constitution and the free rein it gives the states, the electoral college has evolved into a relatively stable and uniform institution. Not all states fill their electoral college obligations in the same way, but a series of amendments, federal and state laws

and political party rules have provided the framework for this complex system.

In accordance with the Constitutional provision, each state must appoint a number of electors equal to the number of Representatives and Senators it has in Congress. The District of Columbia did not have electoral college representation until 1961 when the 23rd Amendment gave it three electors. The electoral college, therefore, has 538 members and works, with some variations, in the following manner:

- In every state, prior to the election, each political party with a presidential candidate selects a full slate of electors who are pledged to vote for the party's candidate. The selection process is accomplished through a party convention, a designated selection committee or by primary. Candidates who are not the nominee of a party can name a slate of electors by filing a petition with the required number of signatures.

- When an individual voter casts a ballot for a presidential candidate he is actually voting for the party's slate of electors and not directly for the President. Most states list only the names of the presidential and vice presidential candidates on the ballot. Less than half require the names of the electors to be listed on the ballot, thus many Americans believe they vote directly for a candidate.

- The slate of electors that wins the popular vote wins membership to the electoral college and the opportunity to cast its state electoral votes for the presidential candidate of its choice. The slate of electors wins as a unit so all of the state's electoral votes are awarded to only one candidate. Candidates who do not win the popular vote will not receive any electoral votes. Every state, except Maine, uses this "winner take all" method of awarding electoral votes. Maine uses a proportional plan whereby electoral votes are awarded according to the percentage of the popular vote cast for each candidate.

- On the Monday following the second Wednesday in December (a date set by federal statute) the winning slate of electors meets in each state to cast two ballots, one for President and one for Vice President. Electors are not bound by the Constitution to vote for the candidates they are pledged to although the large majority of them do. The fear that a "faithless elector" (those who cast votes against their pledge) could change the outcome of a close race has caused one-third of the states to enact laws binding electors to their pledges.

- The ballots cast by the state electors are tallied and the results sent to Congress, where they are counted in the presence of the new Senate and House Representatives on January 6. The candidate for President who gets at least 270 votes, the majority of the total of 538, is declared the President elect. The same procedure is followed for counting the ballots for Vice President.

If no candidate receives a majority of the electoral college votes the election is thrown into the House and Senate for resolution. The 12th Amendment states the procedure for this so-called "contingent election." The House selects the President according to the following rules:

- Only the top three vote-getters in the electoral college are to be considered.
- Regardless of its population and number of Representatives, each state delegation in the House has one vote, for a total of 50 votes. The District of Columbia, which sends a nonvoting delegate to the House, has no vote.
- The state's choice is determined by a vote within its delegation. If that vote is a tie, the state loses its vote.
- A winning candidate must receive the votes of a majority—26—of the states.
- There is no limit to the number of ballots in the House.

The following rules apply to the Senate's selection of a Vice President:

- The choice is between the top two vice presidential vote-getters in the electoral college.
- Each Senator has one vote, for a total of 100 votes (no vote for the District of Columbia).
- A Vice President must be elected by a majority—51—of the whole Senate.

If the House fails to elect a President by January 20, the Vice President elect serves as President until the House makes its choice. If the Senate has not elected a Vice President either, then the Speaker of the House will act as President.

The Constitution sets these procedures for "contingent elections" but places no restrictions on how the members of Congress must vote. They are free to vote for the candidate of their choice regardless of the preferences voiced by their constituents at the polls. It is even conceivable, under this system, that the House will elect a President from one party and the Senate a Vice President from another.

WHY THE ELECTORAL COLLEGE?—1787

"The Convention, sir, were perplexed with no part of this plan so much as with the mode of choosing the President of the United States" said James Wilson to his fellow Pennsylvanians, who were gathered to approve or disapprove the work of the Constitutional Convention. As a delegate to the Philadelphia Convention Wilson had been one of the strongest voices in favor of popular election of the President. And yet he defended the proposed electoral college

system during the ratification process. Wilson, like many of his fellow delegates, put ideology aside to accept an experimental but "practicable" solution to the task of electing a Chief Magistrate. A solution which was the product of long hours of heated debate, the electoral college (as it came to be known early in the 19th century) was a compromise among practical men.

Much of the difficulty the founders had in finding an electoral process they could agree on can be traced to a wariness of centralized power in general. Their models of centralized executive power did not exactly inspire confidence—the British Crown being the most immediate example. Republican theory, as articulated by the French political philosopher Montesquieu, warned them about the dangerous characteristics which prevail in persons who are vested with sole, central authority.

> *Ambition with idleness—baseness with pride—the thirst of riches without labor—aversion to truth—flattery—treason, perfidy—violation of engagements—contempt of civil duties—hope from the magistrate's weakness; but above all, the perpetual ridicule of virtue.*

To many of the delegates the obvious way to counteract some of the danger of central executive power was to have the legislature elect the President. The founders all shared a deep republican conviction that the real power in government should be vested in the legislature, the branch of government which most closely represented the people. This conviction had already been put to practice in most of the revolutionary state constitutions which provided for legislative election and legislative-judicial review of the governor. Appointment of the President by the national legislature would act as a check on centralized power and keep the government in the hands of the people through their representatives. It would insure that the interests of the states would play a part in choosing the President. Delegates from smaller states were particularly supportive of the legislative method because they felt it would give them a voice in the selection process that others would not.

The same body of republican theory that suggested election by the legislature also provided the ammunition for arguments against it. In a republican system the legislature acted as a buffer between the people and the executive power but, as James Wilson pointed out in Philadelphia, it was also important to have some check on the legislature.

> *A particular objection against an absolute election by the legislature was that the Executive in that case would be too dependent to stand as the mediator between the intrigues and sinister views of the Representatives and the general liberties of the people.* (Farrand, v. 2, p. 29)

Wilson, James Madison, and Gouvenor Morris, among other delegates, felt that to be strong an executive had to be independent.

Their recent experience with the Articles of Confederation convinced them that the nation needed a strong leader to survive. The need for a new Constitution was largely due to the lack of central authority under the Articles—the national government had no power to levy taxes, raise an army or even to represent the United States as a whole. If the President were dependent upon the legislature for election and reelection, he would not be strong enough to rise above its "cabals," conflicts and petty intrigues to set the nation on a stable course.

Gouvenor Morris and others who supported popular election believed that there was such a thing as "the national interest," distinct from state interests and embodied in the people and the President. It made sense, therefore, for the people to elect their own representative. Morris was confident that the method would avert the danger of a dependent President and insure the country an able leader.

> *If the people should elect, they will never fail to prefer some man of distinguished character, or services; some man.....of continental reputation. If the legislature elects, it will be the work of intrigue, of cabal, of faction: it will be like the election of a pope by a conclave of cardinals; real merit will rarely be the title to the appointment.* (Farrand, v.2., p.29)

Opponents of popular election were reluctant to accept the idea of a distinct national interest for fear that the states would be overshadowed by the central government. They kept returning to the idea of election by Congress, believing that conspiracy between the executive and the legislature would be much more safely controlled by making the executive ineligible for a second term than by popular election.

At the root of much of this argument was a difference of opinion about how the size of the country would affect the success of a republican system. George Mason, and other opponents of popular election, have been accused of anti-democratic elitism and lack of faith in the people. Mason believed "it would be unnatural to refer the choice of a proper magistrate to the people, as it would to refer a trial of colors to a blind man." His belief that the people were an inappopriate electorate can more accurately be attributed to a very practical consideration.

> *The extent of the country renders it impossible that the people can have the requisite capacity to judge...the candidates.* (Farrand, v.2., p. 29)

As well as being too disbursed to be informed about the candidates, the people were too far away to control the President once he was elected. The country would be without guard against despotism.

In the developing argument, supporters of popular election turned this fear on its head and credited the size of the country with insuring a safe popular election. Corruption and intrigue could

never affect a large enough section of the country to influence the outcome of the election. The expanse of the country was its own best safeguard against tyranny.

Proponents of legislative election and popular election seemed to be at loggerheads. Many of the delegates were uneasy about popular election but did not feel the legislative branch was the appropriate body to elect the President either. As a result, ideas for an alternative intermediary electoral body began to take shape. Elbridge Gerry offered one version of the proposal. Prefacing his remarks with an attack on popular election because "the people are uninformed and would be misled by a few designing men," Gerry then

> *urged the expediency of an appointment of the Executive by Electors to be chosen by the State Executives. The people of the States will then choose the first branch: the legislatures of the States the second branch of the National Legislature, and the Executives of the States the National Executive. This...would form a strong attachment in the states to the National System.* (Farrand, v.2., p. 57)

James Madison put the idea of an intermediate body of presidential electors in the context of the debate which had already taken place. His comments reflect the attitude of much of the Convention—here was a compromise of a very practical nature.

> *It is essential...that the appointment of the Executive should either be drawn from some source, or held by some tenure, that will give him a free agency with regard to the legislature. This could not be if he was to be appointed from time to time by the legislature. It was not clear that an appointment in the first instance, even with an ineligibility afterwards, would not establish an improper connection between the two departments. Certain it was that the appointment would be attended with intrigues and contentions that ought not be unnecessarily admitted. He was disposed for these reasons to refer the appointment to some other source. The people at large was in itself the fittest. It would be as likely as any that could be devised to produce an Executive Magistrate of distinguished character. There was one difficult, however, of a serious nature. The right of suffrage was much more diffusive in the Northern than the Southern states. The substitution of electors obviated this difficulty and seemed on the whole to be liable to the fewest objections.* (Farrand, v.2, pp. 56-7)

Without a history of success or a body of republican theory to recommend it, the electoral college arrived as a practical solution to a difficult problem which had threatened to create an irreconcilable gap. Late in the Convention, the Committee of Eleven, which had been appointed to forge a compromise, proposed a device the Convention could live with.

> *Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number*

of senators and representatives to which the State may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Represenatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President. (United States Constitution, Article II, Section 2)

The electoral college system was, therefore, the result of a truly creative compromise and it offered something to every faction involved in the debate. For those who favored states' rights, there was the provision that state legislatures could decide how electors would be chosen; small states were guaranteed at least three electoral votes—one per Senator and one per Representative—and equality in case of an election in the House of Representatives; large states had the advantage of population-based apportionment of electoral votes; Southern states could apportion electoral votes according to the white population plus three-fifths of the slave population. There was even an element of popular vote in the election, albeit indirect.

THE RATIFICATION DEBATES

The mode of appointment of the chief magistrate of the United States is almost the only part of the system, of any consequence, which has escaped without severe censure, or which has received the slightest mark of approbation from its opponents. (Federalist #68)

So wrote Alexander Hamilton to the people of New York in the series of pro-ratification newspaper articles known today as the

Federalist Papers. There is a certain irony in his statement, in light of the difficulty the Convention had in forming the system in the first place, and the subsequent frequency with which the electoral college has come under attack. Hamilton's statement is also not unreservedly true. Anti-federalists did object to the electoral college, and on some very fundamental grounds. No longer tied to the practical demands of the Philadelphia Convention, the debate over presidential election during the ratification process focused more directly on principles. The philosophical differences between the Federalists and the Anti-federalists were evident in the objections raised to the indirect presidential election process.

"Refined" Democracy or the "Simple Business of Election?"

Many Anti-federalists accused the Constitution, as a whole, of violating republican theory because it attempted to instate a representative system which, they felt, was unworkable in a nation so large and diverse. Self government was impossible unless the government was closer to the people. The electoral college was another example of how the Constitution was sowing the seeds of tyranny—it reinforced a central government by taking the selection of the President, and therefore any control over him, out of the hands of the people.

James Madison responded to these kinds of objections in Federalist #10 by making an argument that was crucial to the justification of the entire representative system and the electoral college in particular. The system was not meant to rob the people of their democratic role in government, its purpose was

> *to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves convened for that purpose.* (Federalist #10)

But Madison's "refined" democracy looked like no democracy at all to "Republicus," a Kentucky Anti-federalist. In a sharp and lengthy criticism of the electoral college system, "Republicus" sneered at the "refinement" it represented and displayed a tone that would be echoed in future criticisms as well.

> *...an extraordinary refinement, this, on the plain simple business of election and of which the grand convention have certainly the honor of being the first inventors; and that for an officer, too, of so much importance as a President...who is to continue four years, and is only removable on conviction of treason or bribery, and triable only by the Senate, who are to be his own council, whose*

interests in every instance runs parallel with his own, and who are neither the officers of the people nor accountable to them. (Kentucky Gazette, March 1, 1788)

Thus what appeared to Madison to be an enhancement of the popular will to make it somehow a better representation of the true interests of the people, was to "Republicus" an unnecessary and dangerous feature of the system that could only distort the voice of the people. It was a question of how direct self-government could be.

Smokescreen

The theoretical groundwork laid by Madison gave the Federalists the basis for justifying the electoral college both as a democratic institution, because it refined the choice of the people, and as a republican institution because it represented the various interests of the states. When it came time to extol the virtues of the electoral college during the ratification debates the Federalists seemed to overlook the practicalities it so apparently offered to the Philadelphia Convention and instead focused on the high moral standards they believed the system insured. Gone was the sense of compromise and imperfection expressed by Madison at the Convention. Instead, Hamilton wrote in Federalist #68:

This process of election affords a moral certainty, that the office of President will seldom fall to the lot of any man, who is not in an eminent degree endowed with the requisite qualifications.

Hamilton went on to explain how a system of electors was conducive to the selection of an able and virtuous executive.

[while it is] desirable, that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided, [it is] equally desirable, that the immediate election should be made by men most capable of analyzing the qualities adapted to the station. A small number of persons selected by their fellow citizens from the general mass, will be most likely to possess the information and discernment requisite to so complicated an investigation. (Federalist #68)

While Hamilton praised the electoral system as an enhancement of the people's will, "Philadelphiansis" voiced the Anti-federalist suspicion that the whole invention was merely a smokescreen for the schemes of the elite. The system retained just enough of the trappings of popular election to appease the demands of the people while, in fact, Anti-federalists claimed, the selection of an executive would be made in the House of Representatives, thereby laying the foundation of tyranny.

There is not a tincture of democracy in the proposed Constitution, except the nominal elections of the President general and the illustrious Congress be supposed to have some colour of that nature; but this is a mere deception, invented to gull the people

into its adoption. Its framers were well aware that some appearance of election ought to be observed, especially in regard to the first Congress; for without such an appearance there was not the smallest probability of their having it organized and set in operation. But let the wheels of this government be once cleverly set in motion, and I'll answer for it, that the people shall not be much troubled with future elections, especially in choosing the ***king,*** *the* ***standing army*** *will do that business for them.* (*Independent Gazetteer,* February 7, 1788)

If the Federalists were able to invest the electoral system with a hitherto-absent moral and theoretical virtue during the ratification debates, some people, at least, weren't buying.

Threat from Above or Below?

Distrust was at the root of the arguments of both the Anti-federalists and the Federalists. "Philadelphiansis" and his cohorts did not trust a centralized government with a structure that put it out of the reach of the people. The electoral college was just such a structure, they felt, designed with dictatorship as its ultimate goal. The Federalists, on the other hand, distrusted the masses. Not only did they concur with the opinion expressed at the Philadelphia Convention that the people were not adequately informed to choose a President but they generally feared the "tumult and disorder" that could result from too much democracy. The electoral college, in their view, was the perfect buffer against the "excesses" of the people.

The choice of ***several*** *to form an intermediate body of electors will be much less apt to convulse the community, with any extraordinary or violent movements, than the choice of* ***one*** *who was himself to be the final object of the public wishes. And as the electors, chosen in each state, are to assemble and vote in the state, in which they are chosen, this detached and divided situation will expose them much less to heats and ferments, which might be communicated from them to the people, than if they were all to be convened at one time, in one place.* (Federalist #68)

The Anti-federalists rejected the whole notion that the community needed to be protected from itself. As far as "Republicus" was concerned, the electoral college system reflected a blatant disregard for the basic rights and freedoms of citizens. A disintegration of those rights was much more to be feared than "heats and ferments."

Is it then become necessary, that a free people should first resign their right to sufferage into other hands besides their own, and then, secondly, that they to whom they resign it should be compelled to choose men, whose persons, characters, manners, or principles they know nothing of? And, after all...to intrust Congress with the final decision at last? Is it necessary, is it rational, that the sacred rights of mankind should thus dwindle down to

elector of electors, and those again electors of other electors? This seems to be degrading them even below the prophetical curse denounced by the good old patriarch, on the offspring of his degenerate son: 'servant of servants...'

To conclude, I can think of but one source of right to government or any branch of it—and that is THE PEOPLE. They and only they, have a right to determine whether they will make laws or execute them, or do both in a collective body, or by a delegated authority. Delegation is a positive actual investiture. Therefore if any people are subjected to an authority which they leave not thus actually chosen—even though they may have tamely submitted to it—yet it is not their legitimate government. They are wholly passive, and as far as they are so, are in a state of slavery. (*Kentucky Gazette*, March 1, 1788)

A Question of Numbers

William Grayson argued against the electoral college at the Virginia ratifying convention by taking an approach that was echoed in other southern states in 1787-88 and continues to be heard to this day. "I presume," Grayson said

> ***that seven Eastern states will always elect him. As he is vested with the power of making treaties, and as there is a material distinction between the carrying and productive states, the latter will be disposed to have him to themselves. He will accommodate himself to their interests in forming treaties, and they will continue him perpetually in office...I have made an estimate which shows with what facility they will be able to reelect him.*** (Virginia ratification debates, June 18, 1788)

Grayson then presented what may have been the first in a long history of calculations which "proved" that the electoral college would allow a small number of states with powerful interests to elect the President of their choice. Grayson complained that the election process did not adequately counteract the power of state coalitions and therefore could not insure that the President would reflect a truly national choice, as its defenders claimed it would. This danger was particularly acute if no candidate received a majority of electoral votes and the election of the President was sent to the House of Representatives. That possibility seems remote to us now but it was generally believed, by the founders themselves, that no one other than George Washington could win an out-right majority and that most subsequent elections would, indeed, be decided in the House.

An Imperfect Solution

Despite the high praise given the electoral system by its defenders in the ratifying debates, the records show that it was regarded as, at best, an imperfect solution to the very real dilemma of choosing an "Executive Magistrate" in an equitable, representa-

tive, and peaceful way. The question then, as now, is whether any other solution would be "more perfect."

MAJOR ELECTORAL ALTERNATIVES

Many different alternatives to the electoral college have been proposed, beginning soon after the Constitution was finally ratified in 1789. The major approaches to reform over the years, which can be summed up in a few categories, were formulated in the early 19th century and for the most part remain the basis of the discussion today.

Controversial Elections

I can return to private life with the consciousness that I shall receive from posterity the credit of having been elected to the highest position in the gift of the people, without any of the cares and responsibilities of the office.

said Samuel J. Tilden after losing the election of 1876 to Rutherford B. Hayes. He is not alone in the annals of history; his distinction—winning the popular vote but losing the electoral vote—was shared by Andrew Jackson in 1824 and Grover Cleveland in 1888. These elections all caused surges of reform proposals but no change in the electoral college system. The first problem election of 1800, did.

- **1800**—The contingent election provision of the Constitution was first tested after a vituperative campaign between the Federalists with President John Adams at their head and the Republicans led by then Vice President Thomas Jefferson. On February 11, 1801, Jefferson presided over the joint session of Congress in which the state electoral votes were opened and counted, revealing an unsatisfactory result, to say the least: Jefferson and Aaron Burr each had 73 votes, Adams 65, Charles Cotesworth Pinkney 63, and John Jay 1. Under the rules, it was up to the House to choose the President from among those five. Each of the 16 states had one vote, with 9 needed to win. The first ballot on February 11 was a portent of things to come. Jefferson received 8 and Burr 6 votes. (The congressional delegations from Maryland and Vermont were divided, so they lost their votes.) After a tremendous amount of jockeying and despite the scathing commentary of arch rival Alexander Hamilton, Thomas Jefferson was elected on the 30th ballot and the seventh day of continuous session. Under the provisions of the Constitution, Burr as the runner-up became Vice President. The12th Amendment changed the rules for contingency elections in 1804.

• **1824**—The second test of the contingent election came in 1824. Since by then 18 of the 24 states chose electors by popular vote, the people's choice for President could be estimated. Both the popular and the electoral returns gave Andrew Jackson a plurality with John Quincy Adams running second, William H. Crawford third and Henry Clay fourth in the electoral vote (even though Clay received more popular votes than Crawford). Since no one received a majority in the electoral college, however, the election went to the House. Just before the contingent election, a story in the *Columbian Observer* alleged that Adams had promised Clay an appointment as the Secretary of State in return for his support. Despite their denials, Adams did win with Clay states, and Clay did become Secretary of State. In 1828, Jackson's popular win was vindicated by a sweeping victory over Adams.

• **1876**—The election of 1876 held a series of surprises in a nation barely beginning to recover from the Civil War. The first surprise came in early returns when Democrat Samuel J. Tilden received the electoral votes of Republican states in the North. It looked like he would win with the solidly Democratic South, but his opponent Rutherford B. Hayes had a chance in the states where Reconstruction was still in effect and Republicans controlled the state machinery. What happened is unprecedented in United States history: four states, South Carolina, Louisiana (the Reconstruction states), Florida and Oregon, each sent in two conflicting sets of electoral votes in a year when neither candidate could afford to lose a single electoral vote.

To complicate matters, it was up to the Democratic House and the Republican Senate to come up with a way to resolve the dispute. The electoral commission subsequently appointed by Congress to judge the conflicting state returns was composed of 5 Senators, 5 Representatives and 5 members of the Judiciary, 8 of whom were Rpublicans and 7 Democrats. In every instance, the disputes were decided in the Republican's favor by an 8-7 vote. Hayes won the election, 185 to 184 electoral votes. Tilden had won the popular vote by half a million.

• **1888**—It was an era of extremely close presidential elections. After a relatively lackluster campaign, Republican Benjamin Harrison received 233 electoral votes and won over Democratic incumbent Grover Cleveland. Cleveland received only 168 electoral votes despite his popular victory by a margin of 95,096 votes. Like the campaign, however, this result caused relatively little excitement at the time.

The District Method

First proposed in Congress in 1800, the district method of choosing electors has been touted by supporters as the one most favored by the founders themselves, because of Madison's statement in 1823 that "the district mode was mostly, if not exclusively, in view when the Constitution was framed and adopted." (Letter to George Hay, 1823). Under this system, each of the nation's Congressional districts would have one elector, and each state would have two at-large electors, with the District of Columbia allotted the same number as the least populous state. Electors would be chosen by popular vote in each district, and the at-large electors would be chosen according to the overall state vote. A number of states used the district method in the first decades of the 19th century and it was a prominent reform supported by Thomas Hart Benton in the 1820's and 30's, during the 1870's by Senator Oliver P. Morton, and was revived during the 1950's in the Mundt-Coudert amendment.

The Proportional Plan

This plan would abolish the office of elector and automatically assign a state's electoral votes to a candidate in direct proportion to the popular vote in the state. While approaching the popular vote principle, the proportional plan seeks to preserve the federal principle of distributing electoral power among the states. It was first introduced in Congress in 1848 and considered again in the aftermath of the uncertain presidential election of 1876. It is primarily known to 20th-century reformers as the Lodge-Gossett amendment, reported faovrably in 1948 and 1949 by House and Senate Judiciary committees. In 1950 it passed the Senate by a 62-27 vote, thereby achieving the two-thirds majority necessary for constitutional amendment, but was defeated in the House, 210-134.

Direct Popular Election

The most frequently proposed alternative would do away with the indirect vote and the electoral college altogether, and establish a direct national election of the President by a popular majority. Recently added to the plan have been provisions that the winning candidate must receive only 40% of the popular vote, and that if no candidate wins 40% the President will be chosen by the people in a second run-off election between the top two candidates, rather than by a vote in Congress.

First proposed in 1816, direct election met with resistance from the states' rights adovcates, smaller states and the slave-holding states, which would lose electoral votes apportioned to three-fifths of the slave population. Andrew Jackson, the loser to John Quincy Adams in the controversial election of 1824, advocated a popular vote in his first annual address to Congress after he was elected in

1828. After a lull in interest, the idea was revived in the post Civil War Congress by Senator Charles Sumner on the basis of civil rights and during the 1870's by Representatives from western states who favored more direct forms of democracy. The proposal slipped into the background again until the 1960's when renewed interest resulted in many resolutions and hearings in the House and Senate. Direct election has been the most prominent reform proposal ever since.

Other Changes

Several changes short of fundamental reform have been proposed to correct what are widely perceived as flaws in the electoral college system. The automatic plan would correct the "faithless elector" problem by abolishing the office of elector and automatically assigning all the state electoral votes to the popular vote winner. Its opponents say the automatic plan is worse than no change at all, because it would institute the winner take all system everywhere. Other reforms, such as the National Bonus Plan, seek to eliminate the possibility that the popular vote winner can lose the election.

THE MODERN DEBATE

Early Changes in the Electoral College

Despite the reform efforts of almost 200 years, the Constitutional provisions regulating the electoral college have changed very little. The 12th Amendment in 1804 changed the procedures governing the selection of a President by the House of Representatives if no candidate wins a majority of electoral votes. Passed in the aftermath of the troubled election of 1800, the 12th Amendment created the contingent election procedure we have today and made a separate ballot for the Vice President rather than assigning that office to the runner-up of the presidential ballot. Since George Grayson had complained from the start that the contingent election was "rather founded on accident than any principle of government I ever heard of," the amendment was timely. It was clearly inspired by practicality rather than principle: the 30 ballots required to elect Thomas Jefferson were evidence enough of the need for change.

Other electoral college changes have been made in the states, which under the Constitution have broad discretion in the method of choosing presidential electors. By the 1830's, most states had changed from legislative appointment to popular election of slates of electors. All the states, except South Carolina, adopted the "general ticket," "unit vote," or "winner take all" system, as it is variously known, by 1836, and it is used everywhere except Maine today. The dominant political parties in the states were early proponents of this system, since they stood to gain even more strength

by not having to concede any votes to the opposition party. Once a few states instituted the winner take all rule, it made sense for others to maximize their relative electoral clout by adopting it, too.

The influence of politics on early electoral college change is ironic in light of James Wilson's argument in its favor in 1787. With the electoral college, he said,

> *...we avoid corruption; and we are little exposed to the lesser evils of party intrigue; and when the government shall be organized, proper care will undoubtedly be taken to counteract influence even of that nature.* (Elliott, v.2., p. 511)

In its original form, the electoral college did not anticipate the political extravaganzas presidential elections would become. However, the electoral college *has* adapted with changing times, into a more political, party-dominated and non-elitist institution. Is it a suitable way for Americans to elect a President in the late 20th century and beyond? Its supporters, arguing practicality, say yes, it can be adapted. Its opponents, invoking the principles of an evolving democratic system, say no.

Electoral college reform has a long and varied history of its own. By no means part of a single or unified movement, attempts to change the way we elect the President have been inspired by larger developments in American history—in particular the changing nature of the right to vote and the rise of what has been called the "People's Presidency." The recent history of electoral college reform, from the debates over the Lodge-Gossett proportional plan in the 1940's and 50's to the rise of a new interest in direct popular election in the 1960's and 70's, provides a good example of how attempts to change the electoral college have been and continue to be influenced by the principles and politics of suffrage, relative state power, and representative government.

Votes Given and Votes Taken Away

The gradual democratization of the franchise is a trend that spans 200 years of United States history. What began as a strictly limited franchise expanded in the early 18th century as the states extended the right to vote to all white men whether they owned property or not. The use of the Constitution to extend voting rights began after the Civil War, when the 13th Amendment (1865) outlawed slavery, the 14th (1868) established citizenship and equal protection under the law for blacks and the 15th (1870) guaranteed that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude."

The 17th Amendment (1913) gave citizens the right to elect their Senators directly. The 19th (1920) recognized the right of women to vote. The District of Columbia was allotted presidential

electors by the 23rd Amendment (1961) and the franchise was extended to 18-year olds in the 26th Amendment (1971).

Through the amendment process the Constitution has played the central role in extending the franchise beyond society's privileged and beyond the majority. One early and long-standing criticism of the electoral college, however, charges that the Constitution, with its loose provision allowing states to decide how electors are chosen, in effect denies the vote to a different kind of minority: those who oppose the winner. Senator Thomas Hart Benton of Missouri, for whom electoral reform was a lifelong committment, made this charge as early as the 1820's.

> *To lose their votes, is the fate of all minorities, and it is their duty to submit; but this is not a case of votes lost, but of votes taken away, added to those of the majority, and given to a person to whom the minority is opposed.* (Annals of Congress, 1823-24, p. 41)

Benton aimed his criticism directly at the winner take all system of awarding electoral votes in the states, which effectively gives the popular vote winner the electoral votes of citizens who oppose him. Benton suggested a variation on the district plan as an alternative, but his larger point went beyond state regulations to the heart of the electoral college system itself: the very idea of an intermediary between the President and the people makes inequality inevitable.

The Lodge-Gossett Proportional Plan

Benton's reasoning and his direct plan were an important part of the spurt of interest in electoral college reform more than 125 years later when considerable Congressional attention was paid to a host of proposals to get rid of the winner take all system in the states and in some cases to get rid of the office of elector itself. Perhaps the most widely known was the Lodge-Gossett amendment, a joint resolution sponsored by Senator Henry Cabot Lodge (MA) and Representative Ed Gossett (TX) which passed the Senate by a more than two-thirds majority but failed in the House in 1950.

The Lodge-Gossett amendment was a proportional plan and its main target was the winner take all system. Unlike Benton, its supporters now had a history of Constitutional amendments to add weight to their case for change. For example, Senator Estes Kefauver could cite the "general giving of more responsibility to our people," by the Constitutional amendment process, in his testimony in support of the amendment. He went on to point out

> *another very important factor is that where the people over 150 years have become accustomed—and it is settled and accepted by everyone—to the fact that they have a right to elect the President, that the Constitution should be brought in line with what the people want to do and think they are doing. Otherwise, we will invite a great many difficulties and dangers.*

The "dangers" that the Lodge-Gossett bill tried to avert were those brought on by the fact that the electoral college and winner take all systems ran contrary to the democratizing direction of the evolving Constitution. It violated the sanctity of the individual's vote by crediting the winner with the votes cast against him and it placed an intermediary between the people and the President, an intermediary which many did not even realize existed. The bill's sponsors were not willing to advocate direct popular election, however. They wanted to preserve the element of state participation and the essentially federalist nature of the presidential election process. Ironically, the federalism question of relative state power in presidential elections created the controversy that hastened the demise of the Lodge-Gossett proportional plan.

The Civil Rights Objection

The road to an extended franchise has been far from straight and smooth. The 13th, 14th, and 15th amendments recognized blacks as citizens with the right to vote, but measures to enforce them met with resistance and counter measures in many southern states. Devices such as the poll tax, literacy tests, strict residency requirements, "grandfather clauses" and restrictive primary regulations denied the rights guaranteed by the Constitution. These devices worked because of the dominance of the Democratic party in the post-Reconstruction South. If blacks, for example, were kept from participating in the Democratic party primaries, and therefore had no voice in the selection of a candidate, they in effect had no vote because the Democratic candidate was sure to win the general election with or without black support.

During the 1950's debate over the Lodge-Gossett amendment and related plans, the tradition of state resistance ran head-on into that of extending voting rights. The immediate issue at hand was a familiar one within electoral college discussions: Which states stood to benefit most from the proportional plan? In the course of the sometimes heated exchange, this issue spawned a clash over civil rights and pitted conservative Southern Democrats against Northern liberals from both parties. Representative Ed Gossett brought the conflict to center stage when he said, on the floor of the House, "at the risk of stepping on a few toes..."

> *Is it fair, is it honest, is it democratic, is it in the best interest of anyone, in fact, to place such a premium on a few thousand labor votes, or Italian votes, or Irish votes, or Negro votes, or Jewish votes, or Polish votes, or Communist votes, or big-city machine votes, simply because they happen to be located in two or three large industrial pivotal states?* (1950)

Gossett's appeal to the majority only verified the suspicions of liberal Democrats and Republicans that the Southern Democrats were trying to inflate their power in presidential elections at the

expense of the liberal wing of the party and as a threat to the political voice of minorities. Senator Clifford Case, Republican of New Jersey, explained this suspicion in a report he filed with the Senate Judiciary Committee in 1951.

> *This proposed division of each state's electoral votes in proportion to the popular vote in that State would cut deeply and it is believed, dangerously into the fabric of our American institutions. It would result in further restriction of the franchise in the "safe" states. It would entrench even more firmly than at present one-party domination in those states, lessening the necessity for attention by the two major parties to the legitimate interests of minority groups, it would dangerously weaken the two-party system. It would be a body blow to any effective program of civil rights.* (C.P. Case, Minority Report, 1951)

Case called attention to what representative of the NAACP, John A. Davis and its Executive Director, Clarence Mitchell, charged more overtly in their 1955 testimony against the Daniel-Humphrey proportional plan bill: it would give free rein to the southern states to continue and reinforce their efforts to deny the black vote. The one-party southern states with few minorities would have an inordinate effect on the presidential election because all their electoral votes would go to the conservative Democrat while the electoral votes of the more diverse north would be divided among many candidates. As Davis said, the plan

> *will kill directly the political influence of the Negro and the minority group votes in pivotal states. Second, it will reduce the importance of the Northern states as a whole and the great industrial states specifically. Third, it will destroy the liberal Democratic Party, for it will once again establish the power of the solid South over the Democratic Party. Fourth, many independent groups, liberal groups, and even labor groups will begin to take less interest in the problems of the Negro and other minorities. Fifthly, the Daniel-Humphrey proposal will kill the influence of the great urban pivotal states.* (Testimony, Senate Judiciary Committee, April 1, 1955)

Director of the NAACP Clarence Mitchell accused the sponsors of proportional and district plans of making a "blatantly racial appeal" to achieve reform for the sake of political power rather than principle. Commenting on Gossett's 1950 floor statement, Mitchell said

> *I would get the impression from Mr. Gossett's statement that about the only people in the United States who are not minorities and not, therefore, a menace to the national welfare are the people of Texas.* (Testimony, Senate Judiciary Committee, April 1, 1955)

Valuing principle over politics, Mitchell claimed, would lead reformers to oppose the proportional plan, which not only essen-

tially disenfranchised minorities but retained the possibility of electing a President who did not have a majority of popular votes. Only the direct election alternative, he believed, combined with a positive committment to getting rid of the poll taxes, literacy tests, residency requirements and other restrictive state measures, would represent a true extension of the constitutionally recognized right of every citizen to vote.

"Bloodshed...or Revolution"
The Case of the Problem Elector

Representative Walter: Suppose a sufficient number of electors were for some reason prevailed upon to vote contrary to the wishes of the voters in their states? I could see possibilities of bloodshed.

Senator Kefauver: ...or revolution.

By the early 19th century, the original notion of electors as detached and thoughtful leaders designated by the people to exercise independent judgment was a thing of the past. They had become agents of the people's or, more accurately, of their party's will, and were chosen not for their learning but for their pledges.

The fact remains, however, that an elector is a free agent empowered by the Constitution to vote for any candidate. Despite some state and party regulations attempting to bind an elector to his pledge, that free agent can and has become a problem elector in a number of ways.

- The *"faithless elector"* has appeared in a few isolated cases in the past, making enough noise to send out warning signals to those who fear the consequences of a widespread "bolting" of pledged electors. A pledge was broken as early as 1796, when Federalist Samuel Miles voted for Republican Thomas Jefferson, and the most recent bolt was in 1960 when Republican elector Henry D. Irwin of Oklahoma voted for Harry Byrd instead of Richard Nixon and defended his action on national TV as a stand against the "socialist-labor leadership."
- The *unpledged elector* was used as a device in the elections of 1948 by the Dixiecrats and in 1960 by Southern conservatives who sought bargaining power by threatening to prevent either major party candidate from winning a majority of electoral votes, a strategy which, if successful, would have thrown the election into the House of Representatives and given its architects virtual power to determine the election results.
- The *uncertain elector* cropped up in the elections of 1860 and 1912. In 1860 the Democratic Convention nomi-

nated Steven Douglas, but only after 13 Southern states had broken away to nominate John Breckinridge. Since neither candidate had the two-thirds support required by party rules some states actually had electoral tickets split between Douglas and Breckinridge. In 1912, the Republicans nominated Taft without the renegade delegates who withdrew to become part of the Progressive Party backing Theodore Roosevelt. An *Outlook* magazine editorial described their dilemma this way

> *For whom should the presidential electors in these (progressive) states vote, provided they are elected in November? Should they vote for the conservative candidate of the 18th of June Convention or for the Progressive candidate of the 5th of August Convention? On the one hand, it is claimed that by a tradition existing for over a century, presidential electors are chosen to perform a purely ministerial act, and therefore the electors already nominated by the Republican Party are under a moral obligation to vote for Mr. Taft. On the other hand, it is claimed that the presidential electors in the several states do not represent the National Convention, or the National Party, but the state which elects them, and therefore they should vote for the candidate who is favored by that state.* (*Outlook*, 12, 1912, p. 656)

None of these problem electors has had a measurable effect on the Presidency. But the potential danger is clear and they are part of the case against the electoral college.

TOWARDS DIRECT ELECTION

Proportional and district plan amendments had been proposed long before the 1950's, and continue to attract support today. The 1950's debate is particularly significant, however, because it brought together the issues of extended suffrage, civil rights and the balance of state power within the electoral college system. In many ways, these clashes set the stage for a new direction in the electoral college debate during the 1960's: towards renewed support for the direct election alternative.

One Person, One Vote

"All of these proposed reforms have one fault in common," commented Tom Wicker in discussing the proportional, district and similar plans. "In some form each of them retains the electoral college, and that is the root of the trouble." Wicker, writing in 1968 in a foreword to a book by journalist Neil Peirce entitled *The People's Presidency*, agreed with the author's carefully argued support of direct election for the President. He continued

the single reform that removes the inequities and perils of the present system without substituting others, that conforms to the long-range trend of American politics and society, is to eliminate the electoral college altogether and give the election of their President directly to the American people. (Foreword, Peirce, pp. 11-2)

Wicker's opinion reflects a basic shift in attitudes towards electoral college alternatives, a shift which indicated a profound change in the conception of a citizen's right to vote in the United States. Beginning in 1962, with the Baker *v.* Carr case, a series of Supreme Court decisions on legislative apportionment and voting rights had an enormous effect on the law of the land and gave added impetus to civil rights legislation in the battle to enforce the guarantees of the 13th, 14th and 15th amendments. These decisions also stimulated efforts to gain electoral college reform, this time with a renewed interest in a century-old proposal: direct popular election of the President.

In the Baker *v.* Carr decision the Court claimed the jurisdiction to review questions of apportionment of state legislatures in light of the equal protection clause of the 14th Amendment:

> *All persons from or naturalized in the United States, and subject to jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.* (United States Constitution, Article XIV, Section 1, ratified July 9, 1868)

In extending the equal protection clause to include the political rights of individuals, the Court was declaring, in the words of Justice William O. Douglas, that "the concept of 'we the people' under the Constitution visualizes no preferred class of voters but equality among those who meet the basic qualifications..."

> *The concep. of political equality from the Declaration of Independence to Lincoln's Gettysburg Address, to the 15th, 17th and 19th amendments can mean only one thing—**one person, one vote.*** (*Gray* v. *Sanders,* 1963) (Emphasis added)

Justice Douglas made this statement in the majority opinion of the Court ruling that the state of Georgia, which had a winner take all system of choosing candidates in statewide and congressional primaries, was denying its city residents equal protection under the law. Georgia modelled its system on the presidential electoral college: each county had a certain number of electoral votes, and the candidate who won the majority within the county won all its electoral votes. The system not only enabled a candidate to win the electoral count without having won the popular vote, but it was heavily in favor of rural counties, which had more electoral votes than the cities.

The "concept of political equality" and its doctrine of "one person, one vote" invoked by the Court in its Georgia decision set a standard for state legislatures which had direct significance for the individual voter. Justice Earl Warren spelled it out in the majority opinion of a related case in 1964.

> *A citizen, a qualified voter, is no more nor no less so because he lives in the city or on the farm. This is the clear and strong command of our Court's Equal Protection clause. This is an essential part of the concept of a government of laws and not men. This is at the heart of Lincoln's vision of 'government of the people, by the people [and] for the people.' The Equal Protection clause demands no less than substantially equal state legislative representation for all citizens, of all places as well as of all races.* (*Reynolds* v. *Sims*, 1964)

If It's Not Good Enough for the States...

The Court's actions and opinions in state apportionment decisions set a precedent that the state of Delaware tried to extend to the electoral college method of choosing Presidents. Delaware, later joined by 12 other states, petitioned the Supreme Court in 1966 to hear its case against the electoral college. Based on the principle of "one person, one vote" and the Court's application of equal protection under law to the political rights of citizens, it contended that the electoral college system was biased against the citizens of small states and denied them equal protection under the law. The plaintiffs in *Delaware* v. *New York* sought justice against the winner take all system, which, they claimed, gave their votes as citizens less weight than the votes of citizens in New York and other states with large electoral vote blocs. The immediate aim of the case was to have the winner take all system declared unconstitutional but the brief filed by Delaware revealed a preference for the direct election alternative. The Court declined to hear the case, but the point had been made on behalf of small states.

Despite its refusal to consider extending its standards for state elections to national elections, the Court's opinions in the apportionment decisions laid the groundwork for the application of the one person, one vote principle to civil rights legislation, and for the passage of the 24th Amendment (1964) which proclaimed:

> *The right of a citizen of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senators or Representatives in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.*

The attention to political equality stimulated by the Court and the Congress made the alleged inequalities of the electoral college more glaring and fueled a new round of challenges to the electoral college system. The failure of persistent efforts to reform it seemed

more paradoxical than ever before, as Neil Peirce, writing near the end of the decade of change, pointed out.

> *Today the United States is approaching universal suffrage, so that every adult American, regardless of wealth, race or residence, will be able to vote, and to have his vote counted equally and fairly. Suddenly, with the civil rights acts of the last decade, the death of the poll tax and the voting decisions of the Courts, it is upon us.* ***It is the basic political fact of our times. And it is reflected in every American political institution—except the way we elect our President.*** (Peirce, p. 205) (Emphasis added)

Congress Takes Another Look

On the legislative front, what Peirce referred to as the "basic Political fact of our time," caused a distinct shift in emphasis away from reform attempting to reapportion and equalize a still-indirect vote. Instead of juggling with the mechanics of the electoral system, reform proposals of the 1960's and 70's went for all or nothing: abolish the electoral college and replace it with direct popular election, or don't change it at all.

In the late 1960's direct election suddenly became a feasible and timely alternative. For decades, "closet" supporters of direct election shied away from it under the assumption that it would never be ratified by three-fourths of the states because they stood to lose the most from the abolition of the electoral vote. For example, Henry Cabot Lodge, of Lodge-Gossett fame, was in favor of direct election, but threw his weight behind the proportional plan in 1950 because he thought it had a better chance for success. A decade and a half later, it began to look as if direct election commanded enough support to make it all the way. Endorsement by a growing number of groups including the Chamber of Commerce in 1966, and the American Bar Association in 1967, gave the reform added exposure and credibility. Polls conducted of the general public and the members of the state legislatures, indicated a substantial majority were in favor of direct election. Of particular significance was Chairman of the Senate Judiciary Committee Amendments subcommittee Senator Birch Bayh's announcement on May 18, 1966 that he would sponsor a direct election plan. (This was the same day a Gallop poll showing 63% of the American public favored an amendment to abolish the electoral college and establish direct popular election.)

In making this announcement, Bayh reversed his earlier stand against direct election, an opposition which was based on his fear that it would encourage and strengthen splinter parties. Bayh said he had been "wrong," and offered a way to discourage the proliferation of splinter parties. He endorsed a plan calling for direct popular election where only 40% of the popular vote, instead of a majority, would be enough to win. This would make it much harder for splinter parties to prevent either majority party candidate from

winning. One year later, Bayh took a step further and endorsed the American Bar Association plan, which, in addition to the 40% rule, replaced the contingent election provision with one requiring a run-off race between the two highest polling candidates. The popular vote winner would become President.

The Electoral College and the New Math

The feasibility of direct election was also enhanced in the 1960's by the breakdown of the old argument that the states had everything to gain from the electoral college and everything to lose from its abolition. New scholarship sought to prove that smaller states in fact lost out in the electoral college system (and therefore in the campaign) because their numbers didn't mean as much. One piece of scholarly evidence used in the *Delaware* v. *New York* case (1966) made creative use of a line of argument which had been part of the presidential election debate since the Constitution's ratification: the mathematical inequality. Using a computer analysis which calculated the relative weight of individual votes, political scientist John Banzshef concluded that a New York voter had 3.312 times the voting power of a voter in Delaware. This formed the basis of Delaware's claim that the winner take all system denied its citizens equal protection. The results of this numerical analysis were later published in an article entitled "One Man, 3.312 Votes: A Mathematical Analysis of the Electoral College" (Villanova Law Review, v. 13, Winter 1968).

Louis Koenig made a similar point, without the aid of a computer.

> *A national popular election of the President could best harmonize with the ideal proclaimed by the United States Supreme Court in its reapportionment decisions, of one man, one vote, or of equal voting influence for all Americans regardless of geographical location. Under the workings of the electoral college system, this ideal is grossly violated; a popular voter in Nevada can command a far greater percentage of an electoral vote than a voter in the far more heavily populated state of California...with the Senate now strongly representative of the urban factor, and with the growing reflection, in the House and the state legislatures, of the Supreme Courts ideals of one man, one vote, the undeniable logic of political progress requires that the Presidency too be brought into accord with that ideal.* (Stedman, pp. 20-21)

Growing Support

The flurry of Congressional activity on direct election proposals in the late 1960's did not get an amendment through Congress, but it did convince many people of the legitimacy of direct election as a viable alternative to the electoral college. And it is during this period that the framework of today's reform debate was established. While many proposals short of direct election still exist and

have support, the major contemporary arguments revolve around the direct election option.

In September 1969 the House passed a direct election amendment by a vote of 338-70. Ten years later, in July 1979, a similar amendment received a 51-49 favorable vote in the Senate, but failed to receive the necessary two-thirds vote required for Constitutional amendments. In between those votes, hearings, endorsements and opinion polls indicated broadening support for the idea. Presidents Nixon, Carter and Ford endorsed direct election because disparities between the electoral and the popular vote margins in their elections stirred renewed efforts to reform the existing system. Public opinion polls showed as much as 77% of the general public in favor of direct election at the end of 1979. The League of Women Voters has made a continuous effort to achieve direct election, and various interest groups have joined the ranks of the reform's supporters. In 1972, for example, the United Auto Workers convention passed a resolution advocating direct election.

> *The UAW's interest in electoral college reform is a logical one that springs directly from the basic principle on which UAW was founded and on which it has always operated. That is the principle of equality of individuals, equality of economic opportunity, equality of educational opportunity, equality of social opportunity, and equality of political participation.*
>
> *The proposed [direct election] amendment involves the basic principle of equality—of the right of every citizen of age to vote and have his vote count exactly the same as that of every other voter. This is of course, the theoretical basis of the one man, one vote decisions that the Courts have handed down. The logic and morality of those decisions is inescapable.* (Schlossberg, Testimony, Senate Judiciary Committee, September 27, 1973)

As the opinion polls indicate, direct election seems, quite simply, to make sense to many people who, as citizens of the United States, believe they have a right to choose those who govern. Echoing the words of "Republicus", Senator Howard Baker argues that depriving the people of this right is not only unnecessary, but dangerous.

> *The people today are widely educated, and due largely to the advent of mass circulation and electronic communications, they are generally well informed on the issues that confront our society and the persons who seek to lead it. The machinery of the electoral college remains; its reason for being has passed. The machinery must be eliminated, in my judgement. The system is more than a harmless anachronism; it represents a dangerous impediment to the voice of the people, an unnecessary barrier interposed between the voting citizen and the highest office in his government.*

Even though support for direct election has broadened since the 1950's and 60's, arguments against it—some new and some old—persist, and keep the amendment from getting anywhere.

Objections to the direct election system and arguments that insist on the continued viability of the electoral college system, are the other half of the dialogue which, after 200 years and more than 500 proposals, has the longevity of the electoral college itself.

THE CASE FOR THE ELECTORAL COLLEGE

Defending the electoral college system against its many opponents over the years has never been a simple task. Opponents believe they have the trend of history and the specter of the election of a President who is not the people's choice on their side. Defenders, on the other hand, have the status quo and a record of peaceful (if not perfect) presidential successions to support them. The case for the electoral college today, unlike that in the Philadelphia Convention of 1787, goes beyond practical considerations and links it to the preservation of the founding principles of American government: the balance between central power and local autonomy, the recognition of state identity and the combination of direct democracy and representation that protects the minority against the tyranny of the majority.

The Federal Principle and the Dangers of Democracy

The electoral college has been called obsolete and useless, because it serves no function in our more democratic and centralized system. Challenging that assumption, its defenders claim it is largely responsible for the continued vitality of the federalist principle which keeps the American system from becoming centralized to the point of no return.

A witness to the 1949 Congressional hearings on electoral reform blamed the uninformed public for the ridicule heaped on the electoral college, and warned of the consequences of losing a great "national resource."

> *The electoral college in late years has become a stranger to most people. The constant shrinkage of public knowledge concerning the functions of government in general, the disinterest and lack of understanding with respect to the fundamentals of the American system, has resulted very largely in this attitude. The electoral college makes its appearance every four years, clothed, it is true, in the ruffles and lace of a period almost forgotten by young and old alike. Its quadrennial appearance induces the mirth, even of some persons in high public office....It is looked upon as grotesque.*
>
> *The present system is not grotesque, Mr. Chairman. Rather, it is we who have become grotesque in our present failure to do more than we have to preserve the two most fundamental principles underlying our dual system of government: the principle of state sovereignty and the concept of a Federal Union. The electoral college system of indirect presidential elections is keyed to that principle by an indissoluable bond. We may laugh it out of exist-*

ence, but in doing so we will only be destroying one of our greatest national resources. Like the ancient republics mentioned by Dickinson, our scorn for the rights and integrity of the states will only invite the same diseases that destroyed them. (Tawney, Hearings, February 11, 1949)

This vision of doom has been contested by those who agree with Neil Peirce that "If one wants to preserve 'states rights' and the American federal system, there are many better ways to do so than by preserving the fictional advantages of the electoral college." Senator Mike Mansfield elaborated on this point.

> *The Federal System is not strengthened through an antiquated device which has not worked as it was intended to work when it was included in the Constitution and which, if anything, has become a divisive force in the Federal System by pitting groups of states against groups of states. As I see the Federal System in contemporary practice, the House of Representatives is the key to the protection of district interests as district interests, just as the Senate is the key to the protection of state interests as state interests. These instrumentalities, and particularly the Senate, are the principal Constitutional safeguards of the Federal System; but the Presidency has evolved, out of necessity, into the principal political office, as the Courts have become the principal legal bulwark beyond districts, beyond states, for safeguarding the interests of all the people in all the States. And since such is the case, in my opinion, the Presidency should be subject to the direct and equal control of all people. (Mansfield, Congressional Record,* 1961, pp. 147-150)

From an institutional point of view—in light of the changing roles of governing institutions within the federal system—Mansfield argued that it was logical and right to change the mode of electing Presidents. But another important defense of the electoral system, articulated by Raymond Moley in 1955, when the Lodge-Gossett plan was again under discussion in Congress, cautioned would-be reformers to look beyond the institutional point of view to the principle involved in changing the system. Arguing with the logic of consistency, Moley warned that the proportional principle in the electoral college would lead to proportional representation in Congress. Similarly, direct election "would assume that this is a single, unitary national government."

> *If we grant that this should be a democracy and to that end prefer a direct popular election of the President, let us be consistent. Let us then abolish the Senate, deny to the Courts the right to pass upon the Constitutionality of legislation, establish a nationwide initiative and referendum on legislation by Congress, and elect a national assembly by proportional representation. This, in effect, would abolish Constitutional government.* (*Newsweek,* April 4, 1955)

A Question of Identity

In defense of the as yet unratified Constitution in 1787, Alexander Hamilton tried to reassure states' rights advocates that the people would, no doubt, get a sense of identity and attach their allegiances to the state and local rather than the national government. The role of states and state identity is another aspect of the federalism issue that has appeared in debates over the electoral college. For some, the old idea of filtering the will of the people through electors to find "the best man" runs contrary to the historical development of a national identity embodied in the one national official who is not only a leader, but also a protector of the aspirations and ideals of all Americans.

> *Can it any longer be pretended that this great people needs the electors to choose wisely for it? Of course not. Yet that was the original theory. The President is the only American official who represents the American people entire—the whole constituency, every one of us, from Maine to California, Dixiecrat and New Left, white and black, man and woman—and what real reason is there that we should not vote directly for him and have our votes counted directly for him? We may be 50 states in Congress but we are one people in the White House—or should be—and the President ought to be ours to choose.* (Foreword, Peirce, p. 15)

Resisting a vision of undifferentiated national unity, Theodore White, in an article entitled "Direct Elections: An Invitation to National Chaos," hearkens back to Hamilton in insisting that the states do have a role in the creation of an American identity. Among the faults of the direct election system, characterized as "a proposal to abolish the federal system" which would promote a degree of "centralization" that "breaches all American tradition," White predicted a loss, not just of federalism, but of the identity that only the states could provide.

> *What is right about the old system is the sense of identity it gives Americans. As they march to the polls, Bay Staters should feel Massachusetts is speaking, Hoosiers should feel Indiana is speaking; blacks and other minorities should feel their votes count; so, too, should Southerners from Tidewater to the Gulf. The Federal System has worked superbly for almost two centuries. It can and should be speedily improved. But to reduce Americans to faceless digits on an enormous tote board, in a plebiscite swept by demagoguery, manipulated by TV, at the mercy of crooked counters—this is an absurdity for which goodwill and able theory are no justification.* (*Life*, January 3, 1970, p. 4)

In a very real sense, then, the electoral college and federalism debate is a debate over what is the more essentially American tradition—the growth of nationhood or the retention of state identity—and whether the direct vote for President would behoove "this great people" or degrade them into "faceless digits." Would it

create the kind of democracy the founders wanted to avoid—one that would promote tyranny of the majority at the expense of the diversity our system of mixed government was created to preserve? Or would it in fact preserve the vitality of that tradition by recognizing the new reality of the "People's Presidency"?

To Protect the Minority

Supporters of the electoral college have recently added a new twist to their argument against direct election—they claim it would hurt minority groups more than anyone else. This represents a change from the days when the civil rights groups, which so strongly opposed the proportional plans of the 1950's, favored direct election in the name of making every individual vote count equally. Now, however, a growing number of scholars believe that direct election would hurt minorities more than help them. A reform instituted in the name of "more democracy" would actually eliminate any political leverage minority groups now have in presidential elections. Theodore White said in his 1970 criticism of direct election proposals

> *If the states are abolished as voting units, the chief political leverage of Negroes is abolished. Whenever a race issue has been settled by plebiscite....the plebiscite vote has put the blacks down.* (*Life*, January 3, 1970, p. 4)

Denied the ability to swing a pool of electoral votes to one candidate or another, minorities would be at the mercy of the majority and they would, invariably, suffer as a result.

In an article entitled "The Plebiscitary Presidency: Direct Election as Class Legislation," political scientist Aaron Wildavsky explains the gradual disenfranchisement which he fears direct election would create. The electoral college system as it stands now forces the political parties to build broad coalitions of supporters who span a range of geographic areas, professions and interests. The parties need the votes of the disadvantaged and less educated as well as the educated elite. Thus they pay attention to the needs of the disadvantaged and, more importantly, serve as "intermediaries" between the people and the candidates. With a direct election method, Wildavsky argues, parties would not need the broad coalitions as long as they could appeal to a sufficient number of like-minded voters. Nobody would care about the people who need parties to educate them. Elections would become a contest of stark numbers rather than a process of building coalitions based on real issues and interests. The result: "...the appearance of direct mass election and the reality of indirect elite manipulation."

Critics of Wildavsky's approach to the issue say that it is mere speculation. No one really knows whether parties would decline and certain groups would suffer with direct election. Furthermore, it is questionable whether the electoral college really does force

parties to pay attention to minorities, or whether it leads them merely to focus on a few "key" states with large numbers of electoral votes. Amidst the speculation about who suffers under which system, others remain certain of their opposition to the way Presidents are elected now. Representative Allard Lowenstein said in 1969

> *The simple fact is that we do not know what group or bloc or point of view would profit from direct election of the President. We do know that the use of the electoral college effectively cancels out the votes of millions of Americans every four years, and that had it cancelled out the votes of only a few thousand more Americans on any of several recent occasions, it would have done so at enormous risk to the ability of a new President to govern and at enormous cost to the respect of the people for their own form of government. I see little sense in continuing to preserve, protect and defend a booby-trap which could blow apart the national electoral procedures simply to head off speculative infringements on theoretical special privileges or particular groups.* (House testimony, May 1, 1969)

The development of the minority argument against direct election, and related research into its effects on the federal principle, seem to indicate a renewed concern for a system that is balanced rather than one that reflects the "one person, one vote" principle that so pervaded the 1960's debate. Another indication of this concern appeared in 1978 in the form of a new plan to reform the electoral college, one which was forged and proposed as a genuine compromise between the seemingly irreconcilable positions of direct election or the status quo.

A New Compromise: The National Bonus Plan

In 1978, the Twentieth Century Fund issued the report of a task force composed of people from various scholarly, political and professional backgrounds gathered to consider electoral college reform. The members of the task force began their deliberations divided into two camps: those who favored keeping the electoral college system with minor changes, and those who favored abolishing it and instituting direct election. The experience of this modern-day committee bore a striking resemblance to that of the Committee of Eleven which created the original electoral system at the Philadelphia Convention. Like that committee, the task force started with two seemingly irreconcilable positions and ended up with a compromise.

The compromise is known as the National Bonus Plan, which represented an attempt to retain the current system of state electoral votes but eliminate what the task force saw as its major flaw by creating an extra "bonus" of votes which would be added auto-

matically to the tally of the national popular vote winner. Specifically, the proposal would:

- Create an extra pool of national electoral votes in the ratio of two per state plus two for the District of Columbia for a total of 102. The winner of the national popular vote would be awarded this "bonus" on a winner take all basis. This would be sufficient to insure that the electoral college winner was also the popular vote winner.
- Eliminate the office of elector and the college itself and institute an automatic winner take all electoral vote awarding system in every state. There would be no possibility of a "faithless elector" and state electoral vote procedures would be uniform.
- In case no candidate wins an electoral majority the plan calls for a second run-off election between the two highest contenders within 30 days, and the winner of the electoral vote wins.

The task force explained its compromise in the statement accompanying its report.

> *[The] debate over its merits, and a careful comparison of its features to both the existing system and direct election, resulted in broad agreement, by a task force that was both diverse and bipartisan, that the national bonus plan was fairer than, and superior, to any other. It introduces novel features to the existing system, but its a Constitutional innovation that is no more novel or ingenious than the original plan for the electoral college. There can be only one winner in a presidential election and the proposed provision of a bonus for the candidate with the majority votes is, in our view, in the Anglo-American tradition of winner take all. In every sense, it is a reform, not a radical restructuring of the system.*
>
> *We believe that our recommendations either minimize or eliminate the problems that plague the existing system. We also believe that the national bonus plan avoids potential problems and risks that might be encouraged with direct election. Because it both preserves traditional values and simplifies the presidential election process, it appealed to the task force as a whole. It is our hope that it will have a similar appeal to the nation.* (Twentieth Century Fund Report)

The balance the National Bonus Plan attempted to achieve was not unlike the balance achieved in 1787: it combined the elements of popular voting, preserved the states as electoral units and deferred to the "Anglo-American tradition" in its non-revolutionary proposal. In its concern for traditional values, it gave more attention to eliminating some of the obvious and agreed upon flaws of the system than to extending the principle of absolute equality of voting to the presidential election—the basic goal of direct election proponents. So far this compromise has not appealed to the nation as much as direct election, which remains the major reform proposed as an alternative to the electoral college system.

Why No Change?

The issue of electoral college reform is raised at least once every four years, when the presidential election stimulates the press to explain, if not comment upon, the way the electoral college system works. Debate, proposed amendments and hearings persist in Congress, but no amendment has reached either House of Congress for a vote since 1979.

After so many years and so many varied attempts to change the way we elect the President, it is only logical to wonder why there has been no change in the electoral college. Almost everyone agrees that the mechanics of the electoral college, as an institution composed of electors, could be improved. A 1966 report from an American Bar Association commission on electoral reform called it "archaic, undemocratic, complex, ambiguous, indirect, and dangerous." Historian Carl Becker looked at it in the context of the rest of the Constitution and decided that

> *of all the provisions of the federal Constitution, the electoral system was the most unrealistic—the one provision not based solidly on political experience and precedent. It was in the nature of an academic invention which ignored experience in the vain expectation that, in this one instance for this high purpose, politicans, would divest themselves of party prejudice and class and sectional bias, and be all for the time being noble Brutuses inspired solely by pure love of liberty and the public good.* (*Yale Review*, March 1945, p. 389)

But the mechanics of the college and the electoral principle are two different things. Despite the scathing review, Professor Becker concludes his argument in favor of retaining the electoral college, with minor changes. This dichotomy is no doubt largely responsible for lack of reform success: even when critics agree on the problem, they don't always agree on the solution.

It is also true that the odds are heavily weighted against any change in the American Constitutional system. One of the reasons why the electoral college reform has remained a perennial question can be summed up in a statement about change in general: it is risky, it is uncertain, and it is difficult.

The Practical Perspective

In the absence of any true consensus in favor of the current system, it is probably sheer practicality that has prevented reform. One "practical" argument is that the system has worked, at least in the sense that it has produced a succession of Presidents in a peaceful process. Political scientist Martin Diamond weighed the relative success against the possible risk of change and concluded

> *like every political institution, the electoral college contains dangerous possibilities. But this much may be said about them: all the dangers critics claim to see in the electoral college are entirely*

matters of speculation. Some have never actually occurred and others have not occurred for nearly a century. Nothing whatever has actually gone wrong with the electoral college for a very long time. Experience has demonstrated that the dangers incident to the present system are neither grave nor likely to occur. But what of the dangers incident to the proposed reform? It is as important to speculate about them as to frighten ourselves with imaginary possibilities under the electoral college. (1977)

One of the strongest of the practical arguments against change is that we would be exposing ourselves to the unknown. As Clinton Rossiter, one of the foremost authorities on the American Presidency said

There are several reasons, all of them convincing, why we should hesitate a long time before replacing a Humpty-Dumpty system that works with a neat one that may blow up in our faces. All the arguments for the system are practical; most of those against it are theoretical. Until we are sure that the Presidency itself will not suffer from a radical change in the method of election, we had best stand fast on tradition and prescription. (*The American Presidency*, p. 222)

Advocates of direct election disagree with Rossiter's characterization of their arguments as "theoretical" and point out that during the 19th century there were several instances in which the popular vote winner was defeated and many, more recent, close calls. They also point out, as Robert McClory did in his testimony before the Senate Judiciary Committee, that the principles they invoke have become reality, and that their reform is nothing more revolutionary than a recognition fact.

While the principle of one man, one vote encountered sharp criticism during a long period following the Supreme Court's decision in Baker v. *Carr in 1962, the result has been to require redrawing the boundaries of Congressional districts, of state legislative distri ts and other representative bodies to assure that each citizen's vote is approximately equal to that of every other citizen.*

The ruling in Baker v. *Carr has now gained universal acceptance and is one of the most basic Constituional principles in our representative system of government.*

There is simply no method of explaining away the fact that the President of the United States today is the President of all the people. He is not merely the representative of a confederation of states or the nominee of an electoral college system, in the opinion of the American people. (Senate Judiciary Committee, January 27, 1972)

The "Most Difficult" Question

The one certain conclusion to be drawn from the history of electoral college reform attempts is that what James Wilson called

the "most difficult" question to face the Philadelphia Convention, has not yet been answered to everyone's satisfaction.

ARGUMENTS FOR THE ELECTORAL COLLEGE

- The electoral method remains an essential part of the federal system and the only fair way to elect a President. It recognizes the important role of the states as political units and guarantees that a President will be supported by a geographically broad constituency.
- The electoral college method is also an accurate reflection of "mixed" government, which combines elements of popular democracy with representative democracy in recognition of the legitimate role of both the majority and the minority in American politics.
- The electoral vote margin has the effect of expanding the President's sense that he has a mandate to lead the country. For example, President Reagan won only 51% of the popular vote in 1980, and a whopping 91% of the electoral college vote.
- The electoral college, in combination with the two-party system, has worked to regulate the peaceful transition of power from one President to the next for almost 200 years. Any of the other proposed methods would encourage extreme single-issue parties because it would be easier for them to get enough votes to prevent any single candidate from winning a majority.
- The electoral college enables minority groups to wield power in presidential elections because they can influence significant blocs of electoral votes in a state and therefore the candidates must pay attention to their legitimate interests. No other alternative retains this feature.
- The electoral college method discourages fraud. The direct election alternative would create a wide-open target for fraud in vote counting because there would be no way of facilitating a recount.
- The electoral college system has some defects, such as the "faithless elector" but they can be corrected without radical restructuring.

ARGUMENTS AGAINST THE ELECTORAL COLLEGE

- The system is archaic. It was created in a time when the people did not have access to the information they do now and based on the assumption that a few electors would be better equipped to choose a national leader wisely. It is completely counter to the historic trend toward one person, one vote in this country.
- The system is dangerous. The possibility of electing a President who is not the choice of the people is very real and could cause a Constitutional crisis.

- There has been much debate over who benefits most from the current system: large states, industrial states, urban minority groups? There is no doubt, however, that some groups and states benefit unduly and are the focus of attention in the presidential campaign to the exclusion of others. It is both more logical and more just that every vote carry equal weight.
- The electoral college system is complicated and inconsistent: different states choose their electors differently; there is no guarantee that electors will actually vote for the candidate they are pledged to.
- The indirect feature of the electoral college is discouraging to voter participation because every vote does not count. Because of the winner take all system in most states, a number of popular votes are actually nullified.

SUGGESTED READINGS

American Bar Association, Special Commission on Electoral Reform, *Electing the President*, Chicago, ABA, 1977.

John F. Banzhaf, III, "One Man, 3.312 Votes: A Mathematical Analysis of the Electoral College," *Villanova Law Review*, v. 13, Winter 1968.

Carl Becker, "The Will of the People," *Yale Review*, v. 34, Spring 1945.

Judith Best, *The Case Against Direct Election of the President: A Defense of the Electoral College*, Cornell University Press, 1975.

Martin Diamond, *The Electoral College and the American Idea of Democracy*, American Enterprise Institute, 1977.

Max Farrand, (ed.), *The Records of the Federal Convention of 1787*, Yale University Press (revised edition), 1937.

Alexander Hamilton, John Jay and James Madison, *The Federalist Papers*, ed. with an introduction by Garry Wills, Bantam Books, 1982. Especially numbers 10, 67-77.

Neil Peirce and Lawrence D. Longley, *The People's Presidency*, Yale University Press (revised edition), 1981.

Murray S. Stedman, Jr., (ed.), *Modernizing American Government*, Prentice Hall, 1968.

Twentieth Century Fund, Task Force on Reform of the Presidential Election Process, "Winner Take All," Twentieth Century Fund, 1978.

Theodore White, "Direct Election: An Invitation to National Chaos," *Life*, v. 68, January 30, 1970.

Aaron Wildavsky, "The Plebiscitary Presidency: Direct Election as Class Legislation," *Commonsense*, v. 2, Winter 1979.

Congressional Hearings

United States Congress, House Committee on the Judiciary, Amend the Constitution with Respect to Elections of the President and Vice President, Hearings, February 9-25, 1949.

_____, Senate Committee on the Judiciary, Nomination and Election of President and Vice President, 84th Congress, 1st Session, March 16-April 6, 1955.

_____, Senate Committee on the Judiciary, Hearings, 87th Congress, 1st Session, May 23-July 13, 1961.

_____, Senate Committee on the Judiciary, Electing the President, Hearings, 91st Congress, 1st Session, January 23-May 2, 1969.

_____, Senate Committee on the Judiciary, Electoral Reform Hearings, 93rd Congress, 1st Session, September 26-27, 1973.

_____, Senate Committee on the Judiciary, The Electoral College and Direct Election, Hearings, 95th Congress, 1st Session, January 27-February 10, 1977.

_____, Senate Committee on the Judiciary, Hearings on the Direct Election of the President, April 3 and 9, 1979.

The Jefferson Foundation
1529 18th Street, N.W.
Washington, D.C. 20036
(202) 234-3688

The Jefferson Foundation is a non-profit, tax-exempt organization incorporated in Washington, D.C. The Foundation has two major purposes.

- *To enhance the public's critical understanding of the Constitution and its history by involving citizens in debate and discussion of the fundamental principles of American government.*
- *To study historical trends and stimulate citizen discussion of constitutional reforms which have been proposed in Congress and endorsed by various groups as ways of improving the structure and functioning of government.*

The Jefferson Foundation is a strictly non-partisan, non-advocacy organization which takes no position on any of the reform issues it studies. Its role is to promote informed and rational discussions of the fundamentals of the American system and to facilitate public understanding of how the Constitution was made.